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Attorneys for Defendant,  
Patrick Byrne

**UNITED STATES DISTRICT COURT**  
**CENTRAL DISTRICT OF CALIFORNIA**

ROBERT HUNTER BIDEN, an  
individual,

Plaintiff,

vs.

PATRICK M. BYRNE, an individual,

Defendant.

Case No.: 2:23-cv-09430-SVW-PD  
Judge: Honorable Stephen V. Wilson  
Courtroom: "10A"

Complaint Filed: November 8, 2023

**DEFENDANT'S REPLY IN  
SUPPORT OF HIS MOTION IN  
LIMINE NO. 1 TO EXCLUDE  
EXPERT TESTIMONY OR  
OPINION BY PLAINTIFF'S  
WITNESSES; MEMORANDUM OF  
POINTS AND AUTHORITIES IN  
SUPPORT THEREOF**

Date: November 25, 2024  
Time: 3:00 p.m.  
Courtroom: "10A"

**DEFENDANT'S REPLY IN SUPPORT OF HIS MOTION IN LIMINE NO. 1 TO EXCLUDE EXPERT TESTIMONY  
OR OPINION BY PLAINTIFF'S WITNESSES; MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT  
THEREOF**

**TO ALL PARTIES AND THEIR ATTORNEY’S OF RECORD:**

Defendant Patrick Byrne hereby replies in support of his motion to exclude any expert testimony from Plaintiff’s witnesses.

**MEMORANDUM OF POINTS AND AUTHORITIES**

**I. INTRODUCTION**

Defendant respectfully requests the Court grant this motion. Defendant’s motion is not limited to the exclusion of undisclosed expert witnesses who are required to provide a written report, but to all undisclosed expert witnesses, including undisclosed *non-retained* treating physicians. Further, Defendant requested the exclusion of all *expert testimony* from *any* of Plaintiff’s witnesses. Plaintiff’s brief entirely ignores these requests, and therefore Plaintiff’s failure to address this issue amounts to acquiescence. Plaintiff admits and agrees that he intentionally chose to forgo the designation of *any experts*, and therefore any *expert testimony* from *any witness* must be excluded.

**II. LEGAL ARGUMENT**

**A. Plaintiff Failed to Designate Non-Retained Experts, Including His Treating Physician.**

Testimony from undisclosed experts, including treating physicians who will testify to “whether a particular traumatic event caused the condition as opposed to another cause, the expert has been transformed into the same type of expert envisioned by the report requirement...” must be excluded (*Goodman v Staples The Office Superstore, LLC*, 644 F.3d 817, 822.) Further, Plaintiff ignores his clearly outlined obligation to identify *all* retained **and non-retained experts**, which includes his treating physicians under Federal Rules of Civil Procedure Rule 26(a)(2)(A). Plaintiff’s identification of his treating physician, a non-retained expert, required the disclosure of the subject matter of her expected testimony, with a summary of the facts and opinions to which she will testify. Rule 26(a)(2)(C)(i)-(ii).

1 Plaintiff is not entitled to call Dr. Berlin to opine on “her professional  
2 impressions” based on Plaintiff’s alleged complaints *in this case*. To the extent  
3 Plaintiff agrees to limit Dr. Berlin’s testimony to her treatment of Plaintiff as a  
4 fact witness, then the Court should restrict Dr. Berlin’s testimony therein.  
5 Otherwise, she must be excluded because Plaintiff will use her to backdoor expert  
6 testimony without first complying with the expert disclosure requirements under  
7 the Federal Rules of Civil Procedure.

8 Similar, no other witnesses can offer expert opinion testimony, including  
9 his wife, or any of his other witnesses.

10 **B. Plaintiff Refused to Meet and Confer**

11 Plaintiff’s own Exhibit A clearly shows he refused to further discuss  
12 Defendant’s Motions in Limine, simply stating he categorically refused to stipulate  
13 to any of the motions we proposed.

14 **III. CONCLUSION**

15 Based on the foregoing, Defendant respectfully requests that this Court grant  
16 this Motion.

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18 Dated: November 18, 2024 LAW OFFICES OF MICHAEL C. MURPHY

19  
20 By: /s/ Michael C. Murphy, Esq.

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23 Michael C. Murphy, Esq.  
24 Michael C. Murphy, Jr., Esq.  
25 Attorneys for Defendant, Patrick  
26 Byrne  
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